

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the amendments set forth above and the remarks below.

Claims 1-15 and 17-22 are pending in the application, claim 16 is cancelled.

Applicant encloses herewith a further Declaration by the inventors under Rule 1.131 establishing actual reduction to practice of the claimed subject matter prior to the filing date of the cited Davis patent. As discussed in a telephone call with the Examiner in which the undersigned requested guidance from the Examiner regarding content of the 1.131 Declaration, the Examiner stated that should the enclosed Declaration be deemed defective in any way, the Examiner will not issue a final Office Action, but rather, will give Applicant an opportunity to address any alleged deficiency. Applicant believes that the enclosed Declaration, which conclusively establishes a software release date of March 2000 and contains source code for the release covering the claimed subject matter, clearly establishes actual reduction to practice of the claimed invention.

The Claim Objections

Claim 22 is amended as set forth above to address the Examiner's objection.

The Prior Art Rejections:

The Examiner rejects claims 1-15 and 17-22 under 35 U.S.C. 102(e) as being anticipated by Davis et al (US Patent No. 6,594,677).

U.S. Patent No. 6,594,677 to Davis (hereinafter Davis) was filed on December 22, 2000 and received Application No. 09/747,457.

As evidenced in the enclosed Rule 1.131 Declaration, there was actual reduction to practice of the claimed invention prior to December 22, 2000, i.e., the Davis filing date. In

particular, Applicant directs the Examiner attention to the second page of the Exhibits A and B having a copyright date of March 2000. Exhibit A is a Software Reference manual for the March 2000 software release discussing the claimed functionality, as discussed in the Declaration. Accordingly, the rejection under §102(e) over Davis should be withdrawn.

The Rule 1.131 Declaration includes source code containing the claimed subject matter. The source code is broken out in Exhibit C to provide a series of subsections containing source code for the various claims. Applicant believes that the extremely well commented source code can be readily understood by one of ordinary skill in the art in order to confirm that the claimed subject matter is contained in the source code. Should the Examiner have any difficulty in this regard, one or more of the inventors would be happy to assist the Examiner in this regard.

Accordingly, Applicant respectfully submits that the present application is condition for allowance and requests a notice of allowance for pending claims 1-15 and 17-21.

The Examiner is respectfully invited to telephone the undersigned if there are any questions regarding this Response or this application.

Applicant does not acquiesce to any assertion made by the Examiner not specifically addressed herein.

The Assistant Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 500845, including but not limited to, any charges for extensions of time under 37 C.F.R. §1.136.

Respectfully submitted,

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